

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 21795 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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DAKSHABEN JITENDRABHAI THAKKAR - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR NV ANJARIA for Petitioner(s) : 1,
MR DIPEN DESAI, AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 29/11/2006

ORAL JUDGMENT

1. Rule. Mr.Desai, learned AGP waives service of
notice of Rule for the respondent State

Authorities. With the consent of the learned Counsel appearing for both the sides, the matter is finally heard today.

2. The petitioner has preferred the petition for challenging the valuation made ultimately by the District Valuation Committee and consequently the petitioner is called upon to make the payment of the premium as per the valuation of the State Government.
3. Upon hearing the learned Counsel appearing for the petitioner as well as the learned Assistant Government Pleader, it appears that there is no dispute on the point that the hearing has not been given to the petitioner before the finalisation of the valuation of the land in question. This Court had an occasion to consider the matter on the aspects of following of the principles of natural justice at the time when the valuation of the land is to be finalized for fixation of the amount of premium as per Section 43 of the Act, in case of **“Bharatbhai Kantilal Jethwa v. State of Gujarat and Others”**, reported in 2006(6) GLH, 303 and

as per the view taken by the Coordinate Bench of this Court, the principles of natural justice is required to be followed to the extent of giving opportunity of hearing to the person concerned, while fixing the amount of premium.

4. Mr. Desai, learned AGP is not in a position to dispute the proposition laid down by this Court in the above referred decision and he further submitted that the State Government has not carried the matter before the higher forum.

5. Under the above circumstances, as the opportunity of hearing has not been given to the petitioner, the impugned decision for fixation of the valuation and consequential action for calling upon the petitioners to pay the premium can be said as in breach of the principles of natural justice. However, in view of the above referred decision of this Court in case **"Bharatbhai Kantilal Jethwa"** (supra), the opportunity of hearing shall be required to be given to the petitioner before the District Valuation Committee, which has ultimately to finalize the valuation since the amount of

premium in the present case is not exceeding Rs.50 lacs.

6. Under the above circumstances, the impugned orders are quashed and set aside on the ground of breach of principles of natural justice and it is further directed that the petitioners shall be given opportunity of hearing before the District Valuation Committee and at that stage, the petitioner shall be at liberty to put forward their case on the aspects of valuation of the land in question, including by production of the authenticated records and the District Valuation Committee shall take appropriate decision in accordance with law, preferably within a period of three months from the date of receipt of the order of this Court.

7. The petition is allowed to the aforesaid extent. Rule is made absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs.

29.11.2006

(Jayant Patel, J.)

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